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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/895,457	06/29/2001	Nobuyoshi Morimoto	5596-00301	1520

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EXAMINER

NGUYEN, NGA B

ART UNIT PAPER NUMBER

3628

DATE MAILED: 07/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/895,457

Applicant(s)

MORIMOTO, NOBUYOSHI

Examiner

Nga B. Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 29 June 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-44 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-44 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 9/7/01;1/17/03.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### **DETAILED ACTION**

1. This Office Action is in response to the communication filed on June 29, 2001, which paper has been placed of record in the file.
2. Claims 1-44 are pending in this application.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lustig et al (hereinafter Lustig), U.S. Patent Application Publication No. US 2002/0002531, in view of Seymour et al. (hereinafter Seymour), U.S. Patent No. 6,871,190.

Regarding to claim 1, Lustig discloses a method for negotiating improved terms for a product or service being purchased over the Internet, the method comprising:

detecting an issuance of a commitment to purchase with associated terms for said product or service being purchased by a purchaser using an Internet web site (paragraph [0070]-[0071], User navigates the Publisher's Web site to submit an "original offer");

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making an offer to said purchaser to accept or reject a contract for negotiating said improved terms (paragraph [0073], the User can select the indicator to commits to accept a better offer when the better offer is available) ;

if said purchaser accepts said offer: conducting a search for said improved terms; receiving said improved terms; and executing said contract (paragraph [0078]-[0079], the Order Server receives the original offer and transmits it to the Matching Engine to initiate and facilitate a matching process; matching program accesses the available offer in the matching database, compares the available offer with the original offer to determine whether the better offer is available; the Matching Engine accepts the better offer on behalf of the User if the better offer is available).

Lustig does not disclose negotiating said improved terms, conducting a search for said improved terms, receiving said improved terms ***within a specified time***.

However, Seymour discloses negotiating the seller sites, conducting a search for the seller sites, receiving the matched seller sites ***within a specified time*** (column 7, lines 40-55, the bidder submits bid information, the bidder agent conducts a search for the plurality seller sites to find the seller sites contain matching criteria specified by the bidder in the bid information; ***the bidder agent conducts the search with a predetermined time period, the bidder agent is arranged to terminate the search for seller sites after the predetermined time period has lapsed***). Therefore, it would have been obvious to one with ordinary skill in the art at the time the invention was made to modify Lustig's to adopt the teaching of Seymour above, for the purpose of

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providing time consuming to the purchaser so that the purchaser can receive the ordered product or service limiting within a specific of time.

Regarding to claims 2-5, Lustig further discloses wherein said detecting comprises detecting said purchaser entering a credit card number, a pre-paid account number, a gift certificate number, an escrow account number, or a bank guaranty number (paragraph [0047]); detecting said purchaser viewing a particular web page; detecting comprises detecting said purchaser accessing a particular URL (paragraph [0070]); detecting comprises detecting said purchaser clicking an icon to confirm order (paragraph [0072]).

Regarding to claim 6, Lustig further discloses wherein said making an offer to said purchaser comprises displaying said contract on a screen of a computer system used by said purchaser to purchase said product over the Internet (paragraph [0072]).

Regarding to claim 7, Lustig further discloses wherein if said purchaser rejects said contract: executing said commitment to purchase (paragraph [0073]).

Regarding to claim 8, wherein said commitment to purchase comprises a purchase order for which payment has been guaranteed by said purchaser (paragraph [0047]).

Regarding to claim 9, Lustig further discloses wherein said improved terms comprise a better price, or a better delivery, or a better warranty or a better return policy compared to the terms associated with said commitment to purchase (paragraph [0074], a better price).

Regarding to claim 10, Lustig further discloses wherein making an offer to said purchaser comprises: reading information associated with commitment to purchase; determining if commitment to purchase represents an area of interest for an improved terms service provider; if commitment to purchase represents an area of interest for said improved terms service provider: making said offer to said purchaser (paragraph [0072]).

Regarding to claim 11, Lustig further discloses wherein conducting said search for said improved terms comprises conducting an auction amongst a plurality of suppliers for said product (paragraph [0078]).

Regarding to claim 12, Lustig further discloses wherein executing said contract comprises entering a legal contract with said purchaser to supply said product under said improved terms (paragraph [0079]).

Regarding to claim 13, Lustig further discloses wherein conducting said search for said improved terms comprises searching a database of preferred suppliers for said product (paragraph [0078]).

Regarding to claims 14-26, Lustig discloses a system for negotiating improved terms for a product or service being purchased over a computer network, the system comprising: a computer program; a web site server computer system; wherein said computer program is executable on a client computer system by a purchaser to connect with the web site server (paragraphs [0048]-[0053], The Publisher Server 140), and executing the method as described in claims 1-13 above.

Regarding to claim 27, Lustig further discloses wherein said client computer system is one or more of the following: a personal computer, a laptop computer, a notebook computer, an Internet-enabled cellular phone, an Internet-enabled personal digital assistant, or an Internet-enabled television (paragraph [0038]).

Claim 28 is written in carrier medium that parallel the limitations found in claim 1 above, therefore, is rejected by the same rationale.

Claims 29-40 contain similar limitations found in claims 1-13 above, therefore, are rejected by the same rationale.

Claims 41, 42, and 44 contain similar limitations found in claim 1 above, therefore, are rejected by the same rationale.

Regarding to claim 43, Lustig further discloses wherein executing said contract comprises contacting said purchaser with a confirmation of said product purchase (paragraph [0084]).

### ***Conclusion***

5. Claims 1-44 are rejected.

6. The prior arts made of record and not relied upon is considered pertinent to applicant's disclosure:

Tilfors et al. (US 6,377,940) disclose method and apparatus for automatically checks the corresponding price in other exchange's order books to find a better price.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to examiner Nga B. Nguyen whose telephone number is

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(571) 272-6796. The examiner can normally be reached on Monday-Thursday from 9:00AM-6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hyung S. Sough can be reached on (571) 272-6799.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (571) 272-3600.

8. Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

C/o Technology Center 3600

Washington, DC 20231

Or faxed to:

(703) 872-9306 (for formal communication intended for entry),

or

(571) 273-0325 (for informal or draft communication, please label "PROPOSED" or "DRAFT").


Hand-delivered responses should be brought to Knox building, 501 Dulany Street, Alexandria, VA, First Floor (Receptionist).



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NGA NGUYEN  
PRIMARY EXAMINER

June 15, 2006